



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2017-0023]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 25 individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions will enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: Comments must be received on or before [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2017-0023 using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.

- Fax: 1-202-493-2251.

Instructions: Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, fmcsamedical@dot.gov, FMCSA, Department of Transportation, 1200 New Jersey Avenue, S.E., Room W64-224, Washington, DC 20590-0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the FMCSRs for a two year period if it finds “such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.” The statute also allows the Agency to renew exemptions at the end of the two year period.

The 25 individuals listed in this notice have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person:

Has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal Meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

In July 1992, the Agency first published the criteria for the Vision Waiver Program, which listed the conditions and reporting standards that CMV drivers approved for participation would need to meet (Qualification of Drivers; Vision Waivers, 57 FR 31458, July 16, 1992).

The current Vision Exemption Program was established in 1998, following the enactment of amendments to the statutes governing exemptions made by § 4007 of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107, 401 (June 9, 1998).

Vision exemptions are considered under the procedures established in 49 CFR part 381 subpart

C, on a case-by-case basis upon application by CMV drivers who do not meet the vision standards of 49 CFR 391.41(b)(10).

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past three years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA-1998-3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrated the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors – such as age, sex, geographic location, mileage

driven and conviction history – are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., “Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,” Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used three consecutive years of data, comparing the experiences of drivers in the first two years with their experiences in the final year.

II. Qualifications of Applicants

Paul A. Bartels

Mr. Bartels, 73, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2017, his optometrist stated, “In my opinion, he has sufficient vision to perform the daily tasks required to operate a commercial vehicle.” Mr. Bartels reported that he has driven tractor-trailer combinations for 17 years, accumulating 1.8 million miles. He holds an operator’s license from Wisconsin. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Harold J. Bartley, Jr.

Mr. Bartley, 49, has aphakia in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2017, his optometrist stated, “Mr. Bartley has sufficient vision to drive a commercial vehicle.” Mr. Bartley reported that he has driven straight trucks for 13 years, accumulating 260,000 miles, and tractor-trailer combinations for nine years, accumulating 270,000 miles. He holds a

Class A CDL from Kentucky. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Charles C. Berns

Mr. Berns, 54, has fibrotic scarring in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is hand motion, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, "It is my opinion that this patient has stable, long-standing vision deficiency in the right eye only and has sufficient visual acuity and peripheral vision in the left eye to operate a commercial vehicle safely." Mr. Berns reported that he has driven straight trucks for 26 years, accumulating 39,000 miles, and tractor-trailer combinations for 56 years, accumulating 42,000 miles. He holds a Class A CDL from Iowa. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Eric L. Boyle, Jr.

Mr. Boyle, 31, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2017, his ophthalmologist stated, "Based on today's exam, in my medical opinion the patient has sufficient vision to perform driving tasks required to operate a commercial vehicle." Mr. Boyle reported that he has driven straight trucks for six years, accumulating 273,000 miles. He holds an operator's license from Maryland. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Jeremiah E. Casey

Mr. Casey, 37, has a cataract in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an

examination in 2017, his optometrist stated, "In my medical opinion, Jeremiah Casey has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Casey reported that he has driven straight trucks for two years, accumulating 10,000 miles, and tractor-trailer combinations for seven years, accumulating 525,000 miles. He holds a Class A CDL from Missouri. His driving record for the last three years shows no crashes but one conviction for speeding in a CMV; he exceeded the speed limit by ten mph.

Leonard M. Cassieri

Mr. Cassieri, 69, has a prosthetic right eye due to a traumatic incident in 1975. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2017, his ophthalmologist stated, "Patient has sufficient vision for driving and operating a commercial vehicle." Mr. Cassieri reported that he has driven straight trucks for 50 years, accumulating 110,000 miles, and tractor-trailer combinations for 50 years, accumulating 110,000 miles. He holds a Class A CDL from California. His driving record for the last three years shows one crash, which he was not cited for, and one conviction for speeding in a CMV; he exceeded the speed limit by 22 mph.

Mr. Randy J. Conrad

Mr. Conrad, 63, has a prosthetic right eye due to a traumatic incident in 1972. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, "Based on these findings, I feel Randy J. Conrad has the visual abilities to continue operating a commercial motor vehicle in interstate commerce because the loss of his left eye occurred in 1972 and he has been driving a commercial vehicle since around 1973." Mr. Conrad reported that he has driven straight trucks for 40 years, accumulating two million miles, and tractor-trailer combinations for two years,

accumulating 50,000 miles. He holds a Class A CDL from Iowa. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Jimmie E. Curtis

Mr. Curtis, 36, has had retinal neovascularization in his left eye since 2010. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2017, his ophthalmologist stated, "In my medical opinion, he is visually capable of driving a commercial vehicle." Mr. Curtis reported that he has driven straight trucks for 16 years, accumulating 402,000 miles, and tractor-trailer combinations for 16 years, accumulating 402,000 miles. He holds a Class A CDL from New Mexico. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Daniel E. Delano

Mr. Delano, 60, has complete loss of vision in his right eye due to a traumatic incident in 1990. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, "In my medical opinion, Mr. Daniel Delano has sufficient vision to perform the driving tasks to operate a commercial vehicle." Mr. Delano reported that he has driven straight trucks for five years, accumulating 190,000 miles. He holds an operator's license from Virginia. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Jonathan P. Edwards

Mr. Edwards, 42, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2017, his optometrist stated, "In my medical opinion, Jonathan Edwards has sufficient vision to perform driving tasks for a commercial vehicle." Mr. Edwards reported that he has driven straight trucks

for six years, accumulating 210,000 miles. He holds an operator's license from Pennsylvania. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

James A. Green

Mr. Green, 61, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/80. Following an examination in 2017, his optometrist stated, "In my opinion, Mr. Green has sufficient vision to operate a commercial vehicle." Mr. Green reported that he has driven straight trucks for 35 years, accumulating 27,335 miles. He holds a Class A CDL from Illinois. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Richard Healy

Mr. Healy, 52, has retinal scarring in his left eye due to an infection in childhood. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2017, his ophthalmologist stated, "In my medical opinion, Richard Healy has sufficient vision to perform all driving tasks required to operate a commercial vehicle." Mr. Healy reported that he has driven straight trucks for 14 years, accumulating 560,000 miles. He holds an operator's license from Maryland. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Tommy G. Hillis

Mr. Hillis, 63, has had a chorioretinal scar in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, light perception. Following an examination in 2017, his optometrist stated, "In my medical opinion, Mr. Tommy Hillis has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Hillis reported that

he has driven straight trucks for two years, accumulating 100,000 miles, and tractor-trailer combinations for 35 years, accumulating 2.5 million miles. He holds a Class A CDL from Texas. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Richard A. Honstad

Mr. Honstad, 44, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2017, his optometrist stated, "In my opinion Richard has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Honstad reported that he has driven straight trucks for 17 years, accumulating 144,000 miles. He holds an operator's license from Minnesota. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Stephen M. Lovell

Mr. Lovell, 61, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is count fingers, and in his left eye, 20/20. Following an examination in 2017, his ophthalmologist stated, "He is safe to operate a commercial vehicle in my opinion, even though his vision is uniocular." Mr. Lovell reported that he has driven straight trucks for 38 years, accumulating 3.23 million miles. He holds a Class AM CDL from Texas. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Thomas P. Maio

Mr. Maio, 30, has had amblyopia in left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2017, his optometrist stated, "In my professional opinion, Mr. Maio has sufficient vision to perform the driving tasks

required to operate a commercial vehicle." Mr. Maio reported that he has driven straight trucks for eight years, accumulating 600,000 miles, and tractor-trailer combinations for eight years, accumulating 4,000 miles. He holds a Class A CDL from Maine. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Carlos Marquez

Mr. Marquez, 49, has had a retinal detachment in his left eye due to a traumatic incident in 1975. The visual acuity in his right eye is 20/20, and in his left eye, hand motion. Following an examination in 2017, his ophthalmologist stated, "Mr. Carlos Marquez has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Marquez reported that he has driven tractor-trailer combinations for ten years, accumulating one million miles. He holds a Class ABCD CDL from Wisconsin. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Jason L. McBride

Mr. McBride, 40, has complete loss of vision of his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2017, his optometrist stated, "I believe he has adequate vision for operation of a commercial vehicle." Mr. McBride reported that he has driven tractor-trailer combinations for 16 years, accumulating 2.4 million miles. He holds a Class CA CDL from Michigan. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Dennis M. Olson

Mr. Olson, 55, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/125. Following an examination in 2017, his

optometrist stated, "In my medical opinion, Dennis Olson has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Olson reported that he has driven straight trucks for 20 years, accumulating 10,000 miles, and tractor-trailer combinations for 20 years, accumulating 8,000 miles. He holds a Class ABCD CDL from Wisconsin. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Kameron W. Quinalty

Mr. Quinalty, 27, has had macular coloboma in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2017, his optometrist stated, "Mr. Quinalty exhibits excellent visual skills...in my professional opinion, based on the testing performed today, Mr. Quinalty should function well enough to continue drive [sic] commercially." Mr. Quinalty reported that he has driven straight trucks for seven years, accumulating 17,500 miles. He holds a Class B CDL from Arkansas. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Daniel C. Sagert

Mr. Sagert, 53, has complete loss of vision in his left eye due to a traumatic incident 1999. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2017, his optometrist stated, "In my medical opinion, after evaluating Mr. Sagert with a formal eye examination on 4/26/2017 and field of vision test on 4/28/2017, Mr [sic] Sagert has sufficient vision to perform the driving tasks involved with operating a commercial vehicle." Mr. Sagert reported that he has driven straight trucks for 17 years, accumulating 442,000 miles, and tractor-trailer combinations for 17 years, accumulating

442,000 miles. He holds a Class ABCD CDL from Wisconsin. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Robert D. Steele

Mr. Steele, 55, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2017, his optometrist stated, "In my opinion, this man has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Steele reported that he has driven tractor-trailer combinations for 37 years, accumulating 2.59 million miles. He holds a Class A CDL from Washington. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Richard C. Strassburg

Mr. Strassburg, 62, has phthisis bulbi in his right eye due to a traumatic incident in 2013. The visual acuity in his right eye is light perception, and in his left eye, 20/25. Following an examination in 2017, his ophthalmologist stated, "I do believe that the patient does have sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Strassburg reported that he has driven straight trucks for 45 years, accumulating 450,000 miles, tractor-trailer combinations for 44 years, accumulating 3.3 million miles, and buses for two years, accumulating 20,000 miles. He holds a Class AM CDL from New York. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Jeremy E. Studebaker

Mr. Studebaker, 41, has had a prosthetic right eye since childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in

2017, his optometrist stated, “In my opinion, Jeremy appears to have sufficient vision in his left eye to perform the driving tasks required to operate a commercial vehicle.” Mr. Studebaker reported that he has driven straight trucks for 13 years, accumulating 130,000 miles. He holds an operator’s license from Indiana. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Daniel D. Woodworth

Mr. Woodworth, 56, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/150. Following an examination in 2017, his optometrist stated, “In my medical opinion, I do believe that the patient has sufficient vision to perform the driving task [sic] required to operate a commercial vehicle.” Mr. Woodworth reported that he has driven straight trucks for 35 years, accumulating 700,000 miles, and tractor-trailer combinations for 25 years, accumulating 750,000 miles. He holds an operator’s license from Louisiana. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comments from all interested persons on the exemption petitions described in this notice. We will consider all comments and material received before the close of business on the closing date indicated in the dates section of the notice.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that

FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA-2017-0023 and click the search button. When the new screen appears, click on the blue “Comment Now!” button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and materials received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA-2017-0023 and click “Search.” Next, click “Open Docket Folder” and you will find all documents and comments related to this notice.

Issued on: September 11, 2017

Larry W. Minor
Associate Administrator for Policy

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